

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventors, we hereby declare that:

Our residence, post office address, and citizenship are as stated below next to our names,

We believe we are original, first, and joint inventors of the subject matter that is claimed and for which a patent is sought on the invention entitled **APPARATUS AND METHOD FOR DETERMINING A FAILURE IN AN AUTOMATIC TRANSMISSION** the specification of which (check one)
☒ is attached hereto.
 _____ was filed on _____ as Application Serial No. _____ and was amended on _____ (if applicable).

We hereby state that we have reviewed and understand the contents of the above identified specification, including the claim(s). We do not know and do not believe that the claimed invention was ever known or used in the United States of America before our invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, and that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by us or our legal representatives or assigns more than twelve months (for a utility patent application) or six months (for a design patent application) prior to this application.

We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, 1.56(a).

POWER OF ATTORNEY: We hereby appoint:

Edward W. Greason, Esq. (Reg. No. 18,918) and John C. Altmiller, Esq. (Reg. No. 25,951) of KENYON & KENYON with offices located at One Broadway New York, 10004 and 1500 K Street, N.W., Suite 700, Washington, D.C. 20005-4201, telephone (202) 220-4200, our attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

SEND CORRESPONDENCE, AND DIRECT TELEPHONE CALLS TO:

Mark H. Neblett, Esq.
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We hereby declare that all statements made herein of our own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF FIRST OR SOLE INVENTOR	FAMILY NAME Nagata	FIRST GIVEN NAME Koji	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY Toyota-shi	STATE OR FOREIGN COUNTRY Aichi-ken	COUNTRY OF CITIZENSHIP Japan
POST OFFICE ADDRESS	POST OFFICE ADDRESS c/o TOYOTA JIDOSHA KABUSHIKI KAISHA of 1, Toyota-cho	CITY Toyota-shi	STATE & ZIP CODE/COUNTRY Aichi-ken, 471-8571 Japan
Signature <i>Koji Nagata</i>	Date September 9, 2003		
FULL NAME OF SECOND JOINT INVENTOR	FAMILY NAME Kashihara	FIRST GIVEN NAME Yuuji	SECOND GIVEN NAME
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Signature <i>Yuuji Kashihara</i>	Date September 9, 2003		

FULL NAME OF THIRD JOINT INVENTOR	FAMILY NAME Takanami	FIRST GIVEN NAME Yoji	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY Anjo-shi	STATE OR FOREIGN COUNTRY Aichi-ken	COUNTRY OF CITIZENSHIP Japan
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Signature <i>Yoji Takanami</i>		Date September 9, 2003	
FULL NAME OF FOURTH JOINT INVENTOR	FAMILY NAME Nozaki	FIRST GIVEN NAME Kazutoshi	SECOND GIVEN NAME
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Signature <i>Kazutoshi Nozaki</i>		Date September 9, 2003	
FULL NAME OF FIFTH JOINT INVENTOR	FAMILY NAME Murasugi	FIRST GIVEN NAME Akio	SECOND GIVEN NAME
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Signature <i>Akio Murasugi</i>		Date September 9, 2003	
FULL NAME OF SIXTH JOINT INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
Signature		Date	
FULL NAME OF SEVENTH JOINT INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
Signature		Date	
FULL NAME OF EIGHTH JOINT INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
Signature		Date	
FULL NAME OF NINTH JOINT INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
Signature		Date	

Title 37, Code of Federal Regulations, Section 1.56
Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.